

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION**

**UNITED STATES LIFE INSURANCE )  
COMPANY OF AMERICA IN THE )  
CITY OF NEW YORK, )**

**Plaintiff, )**

**v. )**

**CV : 3:07-cv-01071-WKW**

**RONNIE JAMES HERRING, MD, )**

**Defendant. )**

**PLAINTIFF UNITED STATES LIFE INSURANCE COMPANY OF  
AMERICA IN THE CITY OF NEW YORK'S  
RENEWED MOTION TO DISMISS DEFENDANT'S COUNTERCLAIMS**

Plaintiff United States Life Insurance Company of America in the City of New York ("U.S. Life"), through its undersigned counsel, moves this Court to dismiss all of Defendant's counterclaims pursuant to Federal Rule of Civil Procedure 12(b)(6).

As grounds for this motion, U.S. Life states that Defendant misapprehends the nature of U.S. Life's declaratory judgment action, as he raises allegations relating to Defendant's "own occupation" disability policy which has nothing to do with the issues before this Court. Further, each of Defendant's counterclaims is due to be dismissed for the reasons fully set out in U.S. Life's memorandum brief

which is filed in conjunction with this motion.

Filed this 18th day of July 2008.

/s/ David P. Donahue  
Michael D. Mulvaney  
David P. Donahue  
Attorneys for Plaintiff United States  
Life Insurance Company of America  
in the City of New York

OF COUNSEL

Maynard, Cooper & Gale, P.C.  
1901 Sixth Avenue North  
2400 Regions Harbert Plaza  
Birmingham, Alabama 35203-2618

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the above and foregoing pleading has been served upon the following listed persons by Electronic Mail, this the 18th day of July, 2008.

**Christopher E. Sanspree**  
**SANSPREE & McRIGHT, LLC**  
**603 Martha Street**  
**Montgomery, Alabama 36104**

/s/ David P. Donahue  
OF COUNSEL